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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on North Dakota state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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Antidote: Civic Responsibility

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Lesson 1

1. **Has Aimee violated any State laws? Have her parents?**

No law makes a minor liable for an unintentionally dangerous act toward another minor. However, if it is found that the girls' parents are seriously endangering the children by leaving them without adequate supervision or medical care, they may be guilty of nonsupport of the children. Nonsupport, a class C felony, is when a "parent or other person legally responsible for the care or support of a child. . . willfully fails to furnish food, shelter, clothing, and medical attention reasonably necessary and sufficient to keep the child's life from danger and discomfort and his health from injury. . . ." N.D. Cent. Code § 14-07-15 (1993). They may also be guilty of abuse or neglect, also class C felonies, because of their failure "to provide proper parental care or control, subsistence. . . or other care or control necessary for the child's physical, mental, or emotional health, or morals." N.D. Cent. Code § 14-09-22(1)(b) (1993). A class C felony carries a maximum penalty of five years' imprisonment, a fine of \$5,000, or both. N.D. Cent. Code § 12.1-32-01(4) (1993). If a child is found to be deprived of such care, the authorities may require the parents to meet certain conditions to retain custody or may take temporary custody of the children if deemed necessary. N.D. Cent. Code § 27-20-30(1)(a), (b) (1993). The court may terminate the parental rights of a parent if the court finds that the child is deprived, that the conditions and causes of the deprivation are likely to continue, and that the child is suffering or probably will suffer serious physical, mental, moral or emotional harm. N.D. Cent. Code § 27-20-44 (1993).

2. **Does State statute allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?**

Tyrell may not drink the wine even if his parents are present. Under state law, a person under 21 years old may not consume alcoholic beverages except during a religious service. N.D. Cent. Code § 5-01-08 (1993). Violation of this section is a class B misdemeanor. The maximum penalty for a class B misdemeanor is 30 days' imprisonment, a fine of \$500, or both. N.D. Cent. Code § 12.1-32-01(6) (1993). If his parents allow him to drink alcoholic beverages, they may be guilty of contributing to the delinquency of a minor, a class A misdemeanor. N.D. Cent. Code § 14-10-06(1) (1993). It is also illegal for Tyrell's parents to provide him with alcoholic beverages; the knowing delivery of alcoholic beverages to anyone under 21 is a class A misdemeanor. N.D. Cent. Code § 5-01-09 (1993). The maximum penalty for a class A misdemeanor is one year's imprisonment, a fine of \$1,000, or both. N.D. Cent. Code § 12.1-32-01(5) (1993).

3. **Is Maria violating any law when she tells her roommates whom to call to buy marijuana?**

Whether Maria's actions constitute a crime depends largely on the extent of her involvement with the actual seller of the marijuana. If Maria is merely telling her friends the identity of someone she thinks sells marijuana, she is probably not violating any statute. If she is acting with intent to facilitate a drug sale, she is guilty of criminal conspiracy, agreeing "with one or more persons to engage in or cause conduct which, in fact, constitutes an offense or offenses" where one of those involved does an overt act to effect the object of the conspiracy. N.D. Cent. Code § 12.1-06-04(1) (1993). Directing her friends to a drug dealer with whom she is working would be an overt act. "Conspiracy is an offense of the same class as the crime which was the objective of the conspiracy." N.D. Cent. Code § 12.1-06-04(6) (1993).

In addition, Maria may be considered to have constructive possession of the drugs and could be charged with possession with intent to distribute, even though she does not actually have the drugs in her physical possession. N.D. Cent. Code § 19-03.1-23(1)(a) (1993). A first conviction for possession with intent to distribute marijuana, a Schedule I narcotic, is a class A felony and carries a penalty of imprisonment of at least a year and a day. In addition, any person who violates this section must undergo a drug addiction evaluation by an appropriate licensed addiction treatment program to indicate prospects for rehabilitation and whether treatment is required. N.D. Cent. Code § 19-03.1-23(7) (1993).

If Maria is participating in a drug conspiracy, she may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug control statutes.

4. **Have Adam and Alex broken any laws other than those against drinking and fighting?**

By fighting, the twins are probably guilty of disorderly conduct. N.D. Cent. Code § 12.1-31-01 (1993). Depending on the circumstances of the fight, they may also be guilty of simple assault, assault, or aggravated assault. N.D. Cent. Code §§ 12.1-17-01, 12.1-17-01.1, 12.1-17-02 (1993). Other possible charges include reckless endangerment, creating "a substantial risk of serious bodily injury or death to another"; or menacing, where a person "knowingly places or attempts to place another human being in fear by menacing him with imminent serious bodily injury." N.D. Cent. Code §§ 12.1-17-03, 12.1-17-05 (1993).

More seriously, the twins may be subject to charges in Joe's death. If either of the twins acted intentionally in causing Joe to fall in front of the car, he may be charged with murder, a class AA felony punishable by life imprisonment. N.D. Cent. Code §§ 12.1-16-01(1)(a), 12.1-32.01 (1993). The murder charge may be reduced to a class A felony if he acted under extreme emotional disturbance for which there is a reasonable excuse.

N.D. Cent. Code § 12.1-16-01(2) (1993). The twins may not use their intoxication as an excuse, as intoxication is not a defense to a criminal charge. N.D. Cent. Code § 12.1-04-02(1) (1993). Under certain circumstances, however, the killing may be justified; a person is justified in using force upon another to defend himself or anyone else against danger of imminent bodily injury. N.D. Cent. Code §§ 12.1-05-04, 12.1-05-03 (1993).

The twins may face charges even if Joe's death is accidental. A person is guilty of manslaughter, a class B felony, if he recklessly causes the death of another human being. N.D. Cent. Code § 12.1-16-02 (1993). Fighting very close to the road may be considered reckless conduct. A lesser possible charge is negligent homicide, negligently causing the death of another person. Negligent homicide is a class C felony. N.D. Cent. Code § 12.1-16-03 (1993). The maximum penalty for a class B felony is 10 years' imprisonment, a \$10,000 fine, or both; for a class C felony, five years' imprisonment, a \$5,000 fine, or both. N.D. Cent. Code § 12.1-32-01(3), (4) (1993).

Regardless of the criminal charges, Joe's parents may sue in civil court anyone who sold or gave the alcoholic beverages to Adam and Alex. Under N.D. Cent. Code § 5-01-06.1 (1993), "[e]very spouse, child, parent, guardian, employer or other person who is injured by any obviously intoxicated person has a claim for relief . . . against any person who knowingly disposes, sells, barter, or gives away alcoholic beverages to a person under twenty-one years of age. . . ."

5. Has Jose violated any State law even though he is not drinking? Has TJ violated any State law? Has Carlos?

If they are drinking or even simply carrying opened containers of any alcoholic beverage inside the car, Jose, Carlos and TJ are all violating N.D. Cent. Code § 39-08-18(1) (1993), which provides: "A person may not have in his possession or on his person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed." Even if he is not drinking or even holding any alcohol, Jose is violating the law under this subsection, which explicitly holds the driver liable for violations by passengers. Drinking in the car would constitute a further violation under the same subsection, which states that "[a] person may not drink or consume alcoholic beverages. . . in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking." Any violation of this subsection carries a mandatory fine of \$50.

Jose is a minor, defined under N.D. Cent. Code § 14-10-01 as a person under 18 years of age. Because of these violations, he may be found by the court to be a delinquent child and the court may take action it considers best suited to his treatment, including but not limited to probation under an appropriate officer of the court; placement in a facility for delinquent children; completion of community service; and periodic testing for the use of alcohol. N.D. Cent. Code § 27-20-31 (1993).

Carlos and TJ are also violating several other laws. Because he is under 21, TJ may not legally purchase, possess, or consume any alcoholic beverages, or furnish money to

anyone else to buy such beverages for his use. N.D. Cent. Code § 5-01-08 (1993). A violation of this section is a class B misdemeanor, which is punishable by a maximum of 30 days' imprisonment, a \$500 fine, or both. N.D. Cent. Code § 12.1-32-01 (1993). If TJ purchased the alcohol himself, he is likely to have lied about his age or used a fake ID, which is a violation of § 5-01-08.1 (1993), another class B misdemeanor.

Under N.D. Cent. Code § 5-01-09 (1993), it is unlawful for any person to sell or give alcoholic beverages to a person under the age of 21. If Carlos provided the alcohol to TJ, he is guilty of this class A misdemeanor and is subject to a fine of up to \$1,000 or one year's imprisonment, or both. Because Jose is a minor, Carlos may also be guilty of encouraging or contributing to the delinquency of a minor, another class A misdemeanor.

6. **Is Dr. Melrose committing any violation by prescribing painkillers without conducting an examination or determining need?**

Dr. Melrose is violating not only state but federal law. Prescribing powerful drugs without first determining the patient's need by examination constitutes unprofessional conduct and Dr. Melrose may lose his license under N.D. Cent. Code § 43-17-31 (1993), which states various grounds for disciplinary action. Dr. Melrose's actions constitute grounds for such action under several subsections, including subsection six, dishonorable, unethical, or unprofessional conduct likely to deceive, defraud or harm the public; subsection 15, gross negligence in the practice of medicine; subsection 17, the prescription of a controlled substance for other than medically accepted therapeutic purposes; subsection 21, a continued pattern of inappropriate care as a physician; and subsection 24, the violation of a federal statute relating to controlled substances.

Since under the circumstances Dr. Melrose is violating medical ethics and state law in giving the prescription, the prescription is not valid. Thus, Dr. Melrose is also violating N.D. Cent. Code § 19-03.1-22 (1993), which prohibits dispensing controlled substances without a prescription. In addition, he is violating N.D. Cent. Code § 19-03.1-23 (1993), which prohibits the manufacture or delivery, or possession with intent to manufacture or deliver a controlled substance. Any violation of this statute is a felony, with mandatory sentences determined according to the type of drug involved. The most serious crime under this section is a class A felony, a violation involving a schedule I or II narcotic drug, with a mandatory minimum sentence of a year and a day for a first offense and a maximum penalty of 20 years' imprisonment for a third or subsequent offense; a fine of up to \$10,000 may also be imposed. N.D. Cent. Code § 12.1-32-01 (1993).

Under U.S. law 21 U.S.C.A. § 829 (West 1993), a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional practice. U.S. v. Varma, 691 F.2d 460 (1982); U.S. v. Jamieson, 605 F.Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide to him a bona fide reason for needing the painkillers, may also be breaking the law. N.D. Cent. Code § 19-03.1-23(6) (1993) prohibits possession of a controlled substance unless the substance was obtained directly

from, or pursuant to, "a valid prescription"; violation of this section is a class C felony, which carries a maximum penalty of five years' imprisonment, a \$10,000 fine, or both. Federal law 21 U.S.C.A. § 843 (West 1993) prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state and federal laws. First, she is guilty of theft under N.D. Cent. Code § 12.1-23-02(1) and (2) (1993): "A person is guilty of theft if he knowingly takes . . . the property of another with intent to deprive the owner thereof [or] knowingly obtains the property of another by deception . . . with the intent to deprive the owner thereof, or intentionally deprives another of his property by deception"

More seriously, because she is stealing prescription drugs, Danielle is violating several state and federal drug-control statutes. She is violating N.D. Cent. Code § 19-03.1-23(6) (1993), which prohibits possession of a controlled substance "unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice"; violation of this section is a class C felony, which carries a maximum penalty of five years' imprisonment, a \$10,000 fine, or both. Since she is in effect dispensing controlled substances, she is violating N.D. Cent. Code § 19-03.1-22 (1993), which prohibits dispensing controlled substances without a prescription. Danielle is also violating U.S. law under 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge, and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such substance was obtained by prescription. The seriousness of her crime under these drug control codes will depend on the type of drugs she takes from the customers' prescriptions and how she uses them.

8. **Is Renee breaking state law even though she is not selling the drugs herself?**

Even though she is not selling the drugs directly, Renee is violating several state and federal laws. She is violating N.D. Cent. Code § 19-03.1-22 (1993), which prohibits dispensing controlled substances without a prescription. In addition, she is violating N.D. Cent. Code § 19-03.1-23 (1993), which prohibits the manufacture or delivery, or possession with intent to manufacture or deliver a controlled substance. Any violation of this statute is a felony, with mandatory sentences determined according to the type of drug involved. The most serious crime under this section is a class A felony, a violation involving a schedule I or II narcotic drug, with a mandatory minimum sentence of a year and a day for a first offense and a maximum penalty of 20 years' imprisonment for a third or subsequent offense; a fine of up to \$10,000 may also be imposed. N.D. Cent. Code § 12.1-32-01 (1993). In addition, she may be guilty of conspiracy, agreeing "with one or more persons to engage in or cause conduct which, in fact, constitutes an offense or offenses" where one of those involved does an overt act to effect the object of the

conspiracy. N.D. Cent. Code § 12.1-06-04(1) (1993). Selling drugs would be an overt act. "Conspiracy is an offense of the same class as the crime which was the objective of the conspiracy." N.D. Cent. Code § 12.1-06-04(6) (1993).

Renee is also violating similar federal statutes such as 21 U.S.C.A. § 841 (West 1993), prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; 21 U.S.C.A. § 844 (West 1993), prohibiting simple possession of a controlled substance; and 21 U.S.C.A. § 861 (West 1993), prohibiting the knowing and intentional use of any person under 18 years of age to violate any federal drug control provision. Renee may also be violating federal law under 18 U.S.C.A. § 371 (West 1993), which prohibits conspiracy to commit any offense against the United States, and 21 U.S.C.A. § 846 (West 1993), which prohibits any attempt or conspiracy to commit any violation of federal drug-control statutes.

By involving her young daughter in the drug trade, Renee has added seriously to her offenses. N.D. Cent. Code § 19-03.1-23 (1993) provides specific punishment and degree of offense for violations under certain conditions. Subsection (4) states that "[a] person at least 21 years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any controlled substance except marijuana is guilty of a class B felony"; the minimum sentence for a first offense is four years and for a second or subsequent offense, at least five years. Subsection (6) states that any violation of this section which takes place on, or within 1,000 feet of property used for a public or private elementary or secondary school, or a public vocational school, is guilty of a class B felony. Punishment for a class B felony is imprisonment of up to 10 years, or a \$10,000 fine, or both. N.D. Cent. Code § 12.1-32-01 (1993).

Renee may lose custody of her daughter and her other children under state child abuse statutes. If it is found that she is seriously endangering her children by failing to provide adequate supervision, she may be guilty of abuse or neglect, both class C felonies, because of her failure "to provide proper parental care or control, subsistence. . . or other care or control necessary for the child's physical, mental, or emotional health, or morals." N.D. Cent. Code § 14-09-22(1)(b) (1993). A class C felony carries a maximum penalty of five years' imprisonment, a fine of \$5,000, or both. N.D. Cent. Code § 12.1-32-01(4) (1993). If a child is found to be deprived of such care, the authorities may require the parent to meet certain conditions to retain custody or may take temporary custody of the children if deemed necessary. N.D. Cent. Code § 27-20-30(1)(a), (b) (1993). The court may terminate the parental rights of a parent if the court finds that the child is deprived, that the conditions and causes of the deprivation are likely to continue, and that the child is suffering or probably will suffer serious physical, mental, moral or emotional harm. N.D. Cent. Code § 27-20-44 (1993). Finally, she may be guilty of encouraging or contributing to the delinquency of a minor, a class A misdemeanor. N.D. Cent. Code § 14-10-06(1) (1993). A class A misdemeanor is punishable by a maximum penalty of one year's imprisonment, a \$1,000 fine, or both. N.D. Cent. Code § 12.1-32-01(5) (1993).

In addition, Renee could receive heavier sentencing under state and federal

statutes. Under N.D. Cent. Code § 19-03.1-23.1 (1993), distribution on or near school property, distribution to a minor by an offender 18 years of age or older, or offenses involving specified quantities of enumerated drugs carry mandatory enhanced penalties. The additional penalties imposed vary according to the original grade of felony and the aggravating factors involved. Under 21 U.S.C.A. § 859 (West 1993), the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds, or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of position of trust, as in a drug trafficking defendant's involvement of her young daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

9. **Did Jim violate any law other than those regarding controlled substances?**

If Jim knew that he carried the HIV virus, he violated the law by allowing his companion to use the contaminated needle, even though he had no intent to harm Andre. While many states have not yet dealt legislatively with the issue of unintentional transfer of the HIV virus, North Dakota has a statute on this point. The law defines "body fluid" as semen, blood, or vaginal secretion and "transfer" of body fluid to include permitting "the reuse of a hypodermic syringe, needle, or similar device without sterilization." N.D. Cent. Code § 12.1-20-17(1)(a), (b) (1993). The section further states: "A person who, knowing that person is or has been afflicted with acquired immune deficiency syndrome, afflicted with acquired immune deficiency syndrome related complexes, or infected with the human immunodeficiency virus, willingly transfers any of that person's body fluid to another person is guilty of a class A felony." N.D. Cent. Code § 12.1-20-17(2) (1993). A class A felony carries a maximum penalty of 20 years' imprisonment, a \$10,000 fine, or both. N.D. Cent. Code § 12.1-32-01(2) (1993).

Jim's companion Andre may be charged in Jim's death by overdose with manslaughter or negligent homicide. His conduct in helping Jim shoot up may be considered to be reckless or negligent behavior. A person is guilty of manslaughter, a class B felony, if he recklessly causes the death of another person. N.D. Cent. Code § 12.1-16-02 (1993). A class B felony carries a maximum penalty of 10 years' imprisonment, a \$10,000 fine, or both. N.D. Cent. Code § 12.1-32-01(3) (1993). A person is guilty of negligent homicide, a class C felony, if he negligently the death of another person. N.D. Cent. Code § 12.1-16-03 (1993). A class C felony carries a maximum penalty of 5 years' imprisonment, a \$5,000 fine, or both. N.D. Cent. Code § 12.1-32-01(3) (1993).

Neither Jim nor Andre may use their intoxication as a defense to any charges; "[i]ntoxication is not a defense to a criminal charge," and a person's conduct may be considered reckless even if he is not conscious of the risk because he is intoxicated. N.D. Cent. Code § 12.1-04-02(1), (2) (1993).

10. **Has the bartender or the owner at Bulldog's Bar and Grill violated any law?**

If Su injures or kills another person as a result of driving in an intoxicated state, the bartender may be held liable for damages. Under N.D. Cent. Code § 5-01-06.1 (1993), "[e]very spouse, child, parent, guardian, employer or other person who is injured by any obviously intoxicated person has a claim for relief. . . against any person who knowingly disposes, sells, barter, or gives away alcoholic beverages to . . . an obviously intoxicated person. . . ."

Lesson 2

*CRIMINAL JUSTICE STATISTICS:
DRUG AND ALCOHOL RELATED OFFENSES
UNIFORM CRIME REPORT DATA OF 1990—CRIME IN THE UNITED STATES*

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% decrease in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% increase from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically increased to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

*Criminal Victimization in the United States, 1990
A National Crime Victimization Survey Report, February, 1992*

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- ♦ • Of the 130,260 total rapes reported by victims to police, 49.8% were believed to be committed by someone under the influence of drugs or alcohol.
- ♦ Of a total of 1,149,710 reported robberies, 24.2% involved an offender under the influence of drugs or alcohol.
- ♦ Of 1,600,760 aggravated assaults committed 40% were committed by people under the influence of drugs.
- ♦ Of the 3,128,130 simple assaults reported, 32.9% were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	\$25,000	15yrs + \$25,000
schedule 2	15 years	\$25,000	15yrs + \$25,000
schedule 3	5 years	\$15,000	5yrs + \$15,000
schedule 4	3 years	\$10,000	3yrs + \$10,000
schedule 5	1 year	\$ 5,000	1yr + \$ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

North Dakota Law

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
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Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1 ¹	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine ²	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1

¹ Must have more than 15% THC (tetrahydrocannabinol), the chemical in the cannabis plant.

² Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

North Dakota Law

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
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Massachusetts ³	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada ⁴	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2

³ Massachusetts calls their schedules classes, but they are the same thing.

⁴ While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

North Dakota Law

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

North Dakota Law

Lesson 5

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	■ imprisonment for up to 20 years, and/or ■ fine of \$10,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	■ imprisonment for up to 5 years, and/or ■ fine of \$5000
First Offense: Codeine - Possession - 200 mg	■ imprisonment for up to 5 years, and/or ■ fine of \$5000
Second Offense: Marijuana - Possession - 50 kg	■ imprisonment for up to 20 years, and/or ■ fine of \$10,000
Third Offense - Methamphetamine - Possession - 100 g	■ imprisonment for up to 10 years, and/or ■ fine of up \$5000

Cite: N.D. Cent. Code § 19-03.1-23.

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed \$250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed \$500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed \$8 million.

Cite: 21 U.S.C. § 841 (1992).

North Dakota Law

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §39-08-01 it is illegal for any person to drive while under the influence of intoxicating liquor or with a blood alcohol concentration of 0.10.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

There is no distinction between the two offenses under North Dakota law.

4. **What are the penalties for being convicted of DWI? DUI?**

Under §39-08-01 upon conviction a court can order the motor vehicle number plates impounded for the period of the suspension or revocation of an individual's driving privileges.

CONVICTION	PENALTY
first	• fine of at least \$250, and • have an addiction evaluation test
second (within 5 years)	• at least 4 days in jail or 10 days of community service, and • a fine of at least \$500, and • have an addiction evaluation test
third (within 5 years)	• at least 60 days in jail, and • a fine of at least \$1000, and • have an addiction evaluation test
fourth (within 7 years)	• 180 days in jail, and • a fine of \$1000

If the offender is under 18, the above penalties can be suspended or deferred unless the individual has prior convictions.

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §39-20-01 if a person drives on the roads of North Dakota it is deemed that s/he consents to a breath test. Under §39-20-04 refusal to take a breath test when asked will result in license revocation or denial of issuance for one year for a first refusal or conviction, 2 years if one prior refusal or conviction in the last 5 years, or 3 years if two prior refusals or convictions in 5 years.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

North Dakota Law

Under §39-08-01 if a person's BAC is 0.10 or more s/he is legally intoxicated.

7. The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?

False. North Dakota law does not distinguish between those over 21 and those under 21.

8. An open container of alcohol can be in your car if you are 21 or over. True or False?

Under §39-08-18 it is illegal for a person to drink or consume alcohol in any motor vehicle when the vehicle is on a public highway or in an area principally for public parking.

North Dakota Law

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,

- ♦ Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- ♦ West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- ♦ 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- ♦ 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- ♦ 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- ♦ 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do not prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

<u>0.00 BAC</u>	<u>0.01 BAC</u>	<u>0.02 BAC</u>	<u>0.04 BAC</u>	<u>0.05 BAC</u>	<u>0.06 BAC</u>
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID:	minors <16 can drive during the daytime only
IL:	minors <17 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
LA:	minors <15 cannot drive between 11pm-6am Mon-Thur and 12am-6am Fri-Sun
MD:	minors <16 cannot drive between 12am-5am
MA:	minors <18 cannot drive between 1am-4am
NY:	minors <18 cannot drive between 9pm-5am
PA:	minors <18 cannot drive between 12am-5am
SD:	minors <16 cannot drive between 8pm-6am.